



# PRESS RELEASE

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Date: Dec. 23, 2015

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CI Release #: CI-2015-12-23-A

### **Justice Department Announces Banque Cantonale Vaudoise Reaches Resolution Under Swiss Bank Program**

The Department of Justice announced today that Banque Cantonale Vaudoise (BC Vaudoise) reached a resolution under the department's **Swiss Bank Program**. BC Vaudoise will pay a penalty of more than \$41 million.

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and
- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreement signed today, BC Vaudoise agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay a penalty in return for the department's agreement not to prosecute this bank for tax-related criminal offenses.

Founded in 1845 and headquartered in Lausanne, Switzerland, BC Vaudoise was established by an Act of the Vaud Cantonal Parliament as a corporation organized under public law. The Canton of Vaud must hold a majority share of BC Vaudoise, and the Canton currently holds more than two third of the shares of BC Vaudoise.

BC Vaudoise is a retail bank whose legal mission has always been to provide banking services to the local community. Because BC Vaudoise is a cantonal bank serving the residents of the Canton of Vaud, most of its business relates to three core areas: retail banking, including home mortgages and savings accounts; small and medium enterprises; and onshore private banking. BC Vaudoise also provides private banking services to clients residing outside of Switzerland through its International Private Banking Department.

BC Vaudoise was aware that U.S. persons had a legal duty to report to the Internal Revenue Service (IRS) and pay taxes on the basis of all their income, including income earned in accounts that the U.S. persons maintained at BC Vaudoise. BC Vaudoise knew or had reason to know that it was likely that some U.S. taxpayers who maintained accounts at BC Vaudoise were not complying with their U.S. reporting obligations.

In 2008, BC Vaudoise opened approximately 10,000 more new client accounts bank-wide than in the previous years. A large portion of these accounts were for ex-UBS clients who left UBS during the financial crisis. Out of this overall influx of clients, between August 2008 and February 2009, BC Vaudoise opened 265 new U.S. taxpayer accounts, comprising an aggregate of \$171 million in new assets under management, without determining whether the relevant U.S. taxpayer clients were tax compliant in the United States.

BC Vaudoise had several relationships with independent asset managers who brought 93 U.S. taxpayer-clients to BC Vaudoise between August 2008 and February 2009. BC Vaudoise did not require evidence of tax compliance with respect to these accounts, which resulted in the opening of many undeclared accounts for U.S. taxpayer-clients. One of these asset managers received a finders' fee of 300,000 Swiss francs for introducing accounts to BC Vaudoise.

BC Vaudoise offered a variety of traditional Swiss banking services – including hold mail service, numbered accounts and code named accounts – that it knew could assist, and that did assist, U.S. taxpayers in concealing assets and income from the IRS. BC Vaudoise permitted U.S. taxpayer-clients to close undeclared U.S.-related accounts by transferring account funds to non-U.S.-related accounts, while continuing to exercise control or retain entitlement to the funds. Close to or while closing accounts, BC Vaudoise also allowed U.S. taxpayer-clients to make large cash withdrawals totaling millions of dollars and to cash millions of dollars in checks drawn on the accounts.

BC Vaudoise opened and maintained potentially undeclared accounts beneficially owned by U.S. taxpayers and held in the name of structures, which were formed in the British Virgin Islands, Cayman Islands, Panama, Switzerland and the United Kingdom. U.S. taxpayers were beneficial owners of those nominee entities, which enabled U.S. taxpayer clients to conceal their identities from the IRS. In some instances, BC Vaudoise provided U.S. taxpayers with the names of outside service providers who could create these types of structures. BC Vaudoise also permitted relationship managers in some cases to have direct contact with and accept instructions from U.S. beneficial owners who did not have powers of attorney over the entity accounts, including accounts that were held by entities incorporated in the British Virgin Islands and Panama.

Since Aug. 1, 2008, BC Vaudoise held approximately 2,088 U.S.-related accounts, which included both undeclared and not undeclared accounts, with total assets of approximately \$1.3 billion. BC Vaudoise will pay a penalty of \$41.677 million.

In accordance with the terms of the Swiss Bank Program, BC Vaudoise mitigated its penalty by encouraging U.S. accountholders to come into compliance with their U.S. tax and disclosure obligations. While U.S. accountholders at BC Vaudoise who have not yet declared their accounts to the IRS may still be eligible to participate in the [IRS Offshore Voluntary Disclosure Program](#), the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of this non-prosecution agreement, noncompliant U.S. accountholders at BC Vaudoise must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

Acting Deputy Assistant Attorney General Larry J. Wszalek of the Justice Department's Tax Division thanked the IRS and in particular, IRS-Criminal Investigation and the IRS Large Business & International Division for their substantial assistance. Acting Deputy Assistant Attorney General Wszalek also thanked W. Damon Dennis, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.